

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

Toya Wilson,

Plaintiff,

v.

Wells Fargo Bank, N.A.,

Defendant.

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: Civil Action No.: 3:17-cv-19-TCB-RGV
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: **COMPLAINT**
: **JURY TRIAL DEMANDED**

For this Complaint, Plaintiff, Toya Wilson, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Toya Wilson ("Plaintiff"), is an adult individual residing in Lagrange, Georgia, and is a "person" as defined by 47 U.S.C. § 153(39).

4. Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), is a South Dakota business entity with an address of 101 North Phillips Avenue, Sioux Falls, South Dakota 57104, and is a “person” as defined by 47 U.S.C. § 153(39).

FACTS

5. In or around April 2016, Wells Fargo began calling Plaintiff’s cellular telephone, number 205-xxx-2017, using an automatic telephone dialing system (“ATDS” or “predictive dialer”) and/or using an artificial or prerecorded voice.

6. Plaintiff does not know how Wells Fargo acquired her cellular telephone number. Plaintiff did not provide it to Wells Fargo.

7. When Plaintiff answered calls from Wells Fargo, she heard a prerecorded message directed to “Riley Rowland”.

8. In or around April 2016, Plaintiff spoke with Wells Fargo and informed them that they were calling a wrong number.

9. Nevertheless, Wells Fargo continued to place automated calls to Plaintiff’s cellular telephone number.

10. Wells Fargo’s calls directly interfered with Plaintiff’s right to peacefully enjoy a service for which she paid, and caused Plaintiff a significant amount of anxiety, frustration and annoyance.

COUNT I
VIOLATIONS OF THE TCPA –
47 U.S.C. § 227, et seq.

11. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. At all times mentioned herein, Defendant called Plaintiff's cellular telephone number using an ATDS or predictive dialer and/or using a prerecorded or artificial voice.

13. Defendant continued to place automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

14. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

15. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

16. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

17. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

18. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: February 9, 2017

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.
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